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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,791

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Ahmad D. Vakili

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EXAMINER

TENTONI, LEO B

ART UNIT

PAPER NUMBER

1791

NOTIFICATION DATE

DELIVERY MODE

04/07/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nyuspatactions@ladas.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,791	<b>Applicant(s)</b> VAKILI ET AL.	
	<b>Examiner</b> Leo B. Tentoni	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 8-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01252006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

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**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of Group I, claims 1-7 in the reply filed on 28 January 2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 8-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 28 January 2010.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodgers et al (U.S. Patent 5,648,041 A).

Rodgers et al (see the entire document, in particular, col. 5, line 42 to col. 7, line 16) teaches a process of making a fibrous material from blow spun fibers including the steps of a) heating a spinnable substance to flow the substance, b) forming at least one fiber by passing the spinnable through a spinning

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apparatus, c) contacting the at least one fiber with a flowing gas and passing the at least one fiber into a diffuser, d) contacting the fiber with at least one additional flowing gas to place the fiber under tension, wherein the gas velocity is greater than the initial velocity of the fiber, e) dissipating the additional flowing gas thereby reducing the fiber velocity to a fiber velocity (this is inherent in Rodgers et al because the structure of the diffusion chamber (i.e., the diffuser) of Rodgers et al, like the structure of the instant diffuser, dissipates the additional flowing gas stream (see Figures 1 and 2 of Rodgers et al, and compare with instant Figure 1)), f) passing the fiber out of the diffuser, and g) collecting the fiber to form the fibrous product.

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Profe (U.S. Patent 5,599,488 A).

Profe (see the entire document, in particular, col. 2, lines 30-47; col. 6, line 5 to col. 7, line 11) teaches a process of making a fibrous material from blow spun fibers including the steps of a) heating a spinnable substance to flow the substance, b) forming at least one fiber by passing the spinnable through a spinning apparatus, c) contacting the at least one fiber with a flowing gas and passing the at least one fiber into a diffuser, d) contacting the fiber with at least one additional flowing gas to place the fiber under tension, wherein the gas velocity is greater than the initial velocity of the fiber, e) dissipating the additional flowing gas thereby reducing the fiber velocity to

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a fiber velocity (this is inherent in Profe because the structure of the diffusion chamber (i.e., the diffuser) of Profe, like the structure of the instant diffuser, dissipates the additional flowing gas stream (see Figures 1 and 4 of Profe, and compare with instant Figure 1)), f) passing the fiber out of the diffuser, and g) collecting the fiber to form the fibrous product.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodgers et al (U.S. Patent 5,648,041 A).

Rodgers et al (see the entire document, in particular, col. 5, line 42 to col. 7, line 16) teaches a process of making a fibrous material from blow spun fibers as claimed, except that Rodgers et al does not explicitly teach dissipating the additional flowing gas thereby reducing the fiber velocity to a fiber velocity. However, this would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Rodgers et al because the structure of the diffusion chamber (i.e., the diffuser) of Rodgers et al, like the structure of the instant diffuser, dissipates the additional flowing gas stream (see Figures 1 and 2 of Rodgers et al, and compare with instant Figure 1).

9. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Profe (U.S. Patent 5,599,488 A).

Profe (see the entire document, in particular, col. 2, lines 30-47; col. 6, line 5 to col. 7, line 11) teaches a process of making a fibrous material from blow spun fibers as claimed, except that Profe does not explicitly teach dissipating the additional flowing gas thereby reducing the fiber velocity to a fiber velocity. However, this would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Profe because the structure of the diffusion chamber (i.e., the diffuser) of Profe, like the structure of the instant diffuser, dissipates the additional flowing gas stream

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(see Figures 1 and 4 of Profe, and compare with instant Figure 1).

10. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Profe (U.S. Patent 5,599,488 A) as applied to claims 1-5 above, and further in view of Rodgers et al (U.S. Patent 5,648,041 A).

Profe does not explicitly teach the use of a carbonaceous pitch (e.g., solvated mesophase pitch) as a spinnable substance. Rodgers et al (see the entire document, in particular, col. 5, line 42 to col. 7, line 16) teaches the use of solvated mesophase pitch as a spinnable substance, and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Profe in view of Rodgers et al in order to manufacture a fibrous product from fibers made from carbon materials.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leo B. Tentoni/  
Primary Examiner, Art Unit 1791